

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY TURNER,

Plaintiff,

v.

WARDEN,

Defendant.

Case No. [21-cv-04945-EMC](#)

ORDER OF TRANSFER

Plaintiff, an inmate at Mule Creek State Prison (“MCSP”) in Ione, filed this *pro se* civil rights action under 42 U.S.C. § 1983, claiming that his criminal conviction should be “revers[ed]” because he suffered ineffective assistance of counsel and the prosecution did not meet its evidentiary burden. *See* Docket No. 1 at 2-3. Plaintiff seeks both monetary relief, and to be “pardon[ed] from this criminal history.” *Id.* at 3.

Documents attached to the complaint show that Plaintiff was convicted in Sacramento Superior Court, which is located in the Eastern District of California. In addition, the named defendant in this case works at MCSP, which also is located in the Eastern District of California. No defendant is alleged to reside in, and none of the events or omissions giving rise to the complaint are alleged to have occurred in, the Northern District.

Regardless of whether Plaintiff brings his claims in a civil rights action or in a habeas petition, his action should be heard in the Eastern District. To the extent Plaintiff intended to pursue a civil rights action, venue is proper in the district where defendants reside and/or the wrongful action occurred. *See* 28 U.S.C. § 1391(b). To the extent Plaintiff intended to pursue a habeas action, a petition challenging a conviction should be heard in the district of conviction. *See*

1 Habeas L.R. 2254-3(b)(1). Here, Plaintiff was convicted by a state court that is located within the
2 Eastern District, the alleged wrong occurred within the Eastern District, and defendant resides
3 within the Eastern District. Venue therefore is proper in the Eastern District, and not in this one.
4 *See* 28 U.S.C. § 1391(b).

5 Accordingly, in the interest of justice and pursuant to 28 U.S.C. § 1406(a), this action is
6 **TRANSFERRED** to the United States District Court for the Eastern District of California. The
7 Clerk shall transfer this matter.

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9 **IT IS SO ORDERED.**

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11 Dated: August 20, 2021

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14 EDWARD M. CHEN
15 United States District Judge
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United States District Court
Northern District of California